
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

Published weekly by The Board of Standards and Appeals at its office at:
250 Broadway, 29th Floor, New York, N.Y. 10007.

Volume 99, Nos. 8-9

March 6, 2014

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32-14-A

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33-14-A

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34-14-BZ

2131 Hylan Boulevard, N/S Hylan Boulevard, Distance 0' 0" of the corner formed by the intersection of Hylan Boulevard and Bedford Avenue, Block 3589, Lot(s) 63, Borough of **Staten Island, Community Board: 2**. Special Permit (§73-36) to permit the operation of a physical culture (Club Metro USA) establishment within an existing building. C8-1 and R3X zoning district. C8-1/R3X district.

35-14-BZ

40-06 Astoria Boulevard, Astoria Boulevard South 28.0 feet east of the intersection of Steinway Street and Astoria Boulevard, Block 686, Lot(s) 12, Borough of **Queens, Community Board: 1**. Special Permit (§73-36) to permit the operation a physical culture within the existing building. C4-2A zoning district. C4-2A district.

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

MARCH 11, 2014, 10:00 A.M.

ZONING CALENDAR

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, March 11, 2014, 10:00 A.M., at 22 Reade Street, Spector Hall, New York, N.Y. 10007, on the following matters:

SPECIAL ORDER CALENDAR

240-55-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for DLC Properties, LLC, owner.

SUBJECT – Application December 31, 2013 – Extension of Time to obtain a Certificate of Occupancy of a previously granted Variance for the continued operation of a UG16 auto repair shop with sales, exchange of vehicles and products which expired on June 8, 2010; Waiver of the Rules. C2-2(R6B) & R-4 zoning district.

PREMISES AFFECTED – 207-22 Northern Boulevard, south side of Northern Boulevard, 350 East of intersection of Northern Boulevard, and 206th Street, Block 7305, Lot 19, Borough of Queens.

COMMUNITY BOARD #11Q

24-96-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Lesaga LLC, owner.

SUBJECT – Application December 31, 2013 – Extension of Time to Obtain a Certificate of Occupancy of a previously granted Variance for the continued operation of a UG6 Eating and Drinking (*McDonald's*) in a residential use district which expired on May 18, 2009; Waiver of the Rules. R7-2 zoning district.

PREMISES AFFECTED – 213 Madison Street, north side of Madison Street 184' east of the intersection of Madison Street and Rutgers Street, Block 271, Lot 40, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEALS CALENDAR

215-13-A

APPLICANT – Anthony A. Lenza, owner

SUBJECT – Application July 16, 2013 – Appeal challenging DOB's denial of the exclusion of floor area under ZR 12-10 (12) (ii) exterior wall thickness. R1-1 Zoning District.

PREMISES AFFECTED – 300 Four Corners Road, Block 894, Lot 235, Borough of Staten Island.

COMMUNITY BOARD #2SI

214-12-BZ

APPLICANT – Phillips Nizer, LLP, for Shea Max Harris, LLC, owner.

SUBJECT – Application July 10, 2012 – Variance (§72-21) to permit the operation of an Auto Laundry (UG 16B) contrary to use regulations. C2-2/R5 zoning district.

PREMISES AFFECTED – 2784 Coney Island Avenue, between Gerald Court and Kathleen Court, Block 7224, Lot 70, Borough of Brooklyn.

COMMUNITY BOARD #13BK

246-13-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Lutheran Medical Center, owner.

SUBJECT – Application August 21, 2013 – Variance (§72-21) to permit enlargement of an existing ambulatory diagnostic treatment health facility (UG4) that exceeds maximum permitted floor area per ZR 24-11 and does not provide required rear yard per ZR 24-36. R6B and C4-3A zoning districts.

PREMISES AFFECTED – 514 55th Street, south side of 49th Street, 90' east of intersection of 5th Avenue and 49th Street, Block 784, Lot 10, Borough of Brooklyn.

COMMUNITY BOARD #7BK

276-13-BZ

APPLICANT – Francis R. Angelino, Esq., for Adams Tower Limited Partnership, owner; Fastbreak, owner.

SUBJECT – Application September 27, 2013 – Special Permit (§73-36) to permit physical culture establishment (*Fastbreak*) on the ground floor, cellar & sub-cellar. C1-9 zoning district.

PREMISES AFFECTED – 1629 First Avenue aka 1617 First Avenue and 341 East 84th Street, west side First Avenue between East 84th & East 85th Street, Block 1547, Lot 23, Borough of Manhattan.

COMMUNITY BOARD #8M

290-13-BZ

APPLICANT – Herrick, Feinstein LLP, by Arthur Huh, for Church Avenue Development LLC, owner; New Fitness Holdings LLC, lessee.

SUBJECT – Application October 21, 2013 – Special Permit (§73-36) to allow for a physical culture establishment (*Retro Fitness*) located on the second-floor level of a four-story building. C4-4A zoning district.

PREMISES AFFECTED – 2244 Church Avenue, south side of Church Avenue between Flatbush Avenue and Bedford Avenue, Block 5103, Lot 42, Borough of Brooklyn.

COMMUNITY BOARD #14BK

CALENDAR

306-13-BZ

APPLICANT – Lewis E. Garfinkel for Howard Berglas, owner.

SUBJECT – Application November 20, 2013 – Special Permit (§73-622) for the enlargement of an existing two-family home to be converted to a single-family home which is contrary to floor area, lot coverage and open space (23-141); and less than the required rear yard (23-47). R3-2 zoning district.

PREMISES AFFECTED – 3766 Bedford Avenue, west side of Bedford Avenue, 350' south of corner of Bedford Avenue and Avenue P, Block 6787, Lot 23, Borough of Brooklyn.

COMMUNITY BOARD #15BK

Jeff Mulligan, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, FEBRUARY 25, 2014
10:00 A.M.**

Present: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.

SPECIAL ORDER CALENDAR

16-93-BZ

APPLICANT – Carl A. Sulfaro, for 110 Christopher Street, LLC, owner.

SUBJECT – Application November 15, 2013 – Extension of Term (§11-411) of a previously approved variance (§72-21) which permitted retail (UG 6) in the cellar of an existing five-story and multiple dwelling, which expires on February 23, 2014. R6 zoning district.

PREMISES AFFECTED – 110 Christopher Street, south side of Christopher street 192'-6.26 West of Bleeker Street, Block 588, Lot 51, Borough of Manhattan.

COMMUNITY BOARD #2M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5

Negative:.....0

THE RESOLUTION –

WHEREAS, this application is for a reopening and an extension of term for a variance, which expired on February 24, 2014; and

WHEREAS, a public hearing was held on this application on February 4, 2014, after due notice by publication in *The City Record*, and then to decision on February 25, 2014; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Chair Srinivasan and Commissioner Montanez; and

WHEREAS, Community Board 2, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is located on the south side of Christopher Street between Bedford Street and Bleeker Street, within an R6 zoning district; and

WHEREAS, on February 24, 1994, under the subject calendar, the Board granted an application to permit, in an R6 zoning district, the reestablishment of an expired variance, originally granted under BSA Cal. No. 50-60-BZ, which permitted the use of the cellar space for three small offices; and

WHEREAS, the term of the grant was extended on May 25, 2004, to expire on February 24, 2014; on that same date, the grant was also amended to permit the conversion of the

cellar space from offices to a custom dressmaking and sales shop; and

WHEREAS, the applicant now seeks an extension of term; and

WHEREAS, based on its review of the record, the Board finds that the proposed extension of term is appropriate with certain conditions set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals, *reopens* and *amends* the resolution, dated February 24, 1994, so that as amended the resolution reads: "to permit an extension of the term of the variance for a period of ten (10) years from February 25, 2014, to expire on February 25, 2024; *on condition* that the premises will be maintained in substantial compliance with the BSA-approved drawings; and *on further condition*;

THAT the grant will expire on February 25, 2024;

THAT the above conditions and all conditions from prior resolutions required to be on the certificate of occupancy will appear on the new certificate of occupancy;

THAT egress requirements will be approved by the Department of Buildings;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

THAT the approved plans will be considered approved only for the portions related to the specific relief granted; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

(DOB Application No. 103579487)

Adopted by the Board of Standards and Appeals, February 25, 2014.

20-02-BZ

APPLICANT – Law office of Fredrick A. Becker, for 303 Park Avenue South Leasehold Co. LLC, owner; TSI East 23, LLC dba New York Sports Club, lessee.

SUBJECT – Application September 20, 2013 – Extension of term of a special permit (§73-36) to allow the operation of a physical culture establishment (*New York Sports Club*) in a five story mixed use loft building, which expired on August 21, 2013. C6-4 zoning district.

PREMISES AFFECTED – 303 Park Avenue South, northeast corner of Park Avenue south and East 23rd Street, Block 879, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #5M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5

Negative:.....0

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THE RESOLUTION –

WHEREAS, this is an application for a reopening of a previously granted special permit for a physical culture establishment (“PCE”) and an extension of term, which expired on August 21, 2013; and

WHEREAS, a public hearing was held on this application on January 28, 2014, after due notice by publication in *The City Record*, and then to decision on February 25, 2014; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Chair Srinivasan, Vice-Chair Collins, Commissioner Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, the PCE is located in a mixed commercial and residential building on the northeast corner of Park Avenue South and East 23rd Street within a C6-4A zoning district; and

WHEREAS, the site is located in portions of the cellar, first floor, and second floor of the five-story building; and

WHEREAS, the PCE has a total floor space of 24,496 sq. ft.; 3,250 sq. ft. of floor space on the cellar level, 5,900 sq. ft. of floor area on the first floor, and 15,076 sq. ft. of floor area on the second floor; and

WHEREAS, the Board has exercised jurisdiction over the subject site since March 18, 1997 when, under BSA Cal. No. 160-95-BZ, the Board permitted the legalization of an existing PCE in the subject building for a term of ten years; and

WHEREAS, on June 18, 2002, under the subject calendar number, the Board approved the expansion of the PCE onto the second floor; and

WHEREAS, the Board notes that numerous building residents testified at the August 21, 2007 hearing, raising concerns with excessive noise and vibrations caused by the operation of the PCE; accordingly, on August 21, 2007, the special permit was extended for a term of one year, which expired on August 21, 2008; and

WHEREAS, the applicant represents that, subsequent to the August 21, 2007 hearing, the concerns were addressed and, on November 18, 2008, the Board granted a five-year extension of term, to expire on August 21, 2013; and

WHEREAS, the applicant notes that the PCE continues to be operated as New York Sports Club; and

WHEREAS, the applicant now seeks a ten-year extension of term; and

WHEREAS, at hearing, the Board directed the applicant to notify the residents of the building and submit proof of such notification; and

WHEREAS, in response, the applicant provided proof that the residents of the building had been notified; and

WHEREAS, based upon its review of the record, the Board finds the requested extension of term is appropriate with certain conditions as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals *reopens* and *amends* the resolution, as adopted on June 18, 2002, so that as amended this portion of the resolution shall read: “to extend the term for ten years from

August 21, 2013, to expire on August 21, 2023, *on condition* that the use and operation of the site will substantially conform to the previously approved plans; and *on further condition*:

THAT the term of this grant will expire on August 21, 2023;

THAT the hours of operation for the PCE will be Monday through Friday, from 5:30 a.m. to 11:00 p.m., and Saturday and Sunday, from 7:00 a.m. to 9:00 p.m.;

THAT the above conditions will be listed on the certificate of occupancy;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s); and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.”

Adopted by the Board of Standards and Appeals, February 25, 2014.

238-07-BZ

APPLICANT – Goldman Harris LLC, for OCA Long Island City LLC; OCAII & III, owners.

SUBJECT – Application October 28, 2013 – Amendment of a previously approved Variance (§72-21) which permitted the construction of a 12-story mixed-use building and a 6-story community facility dormitory and faculty housing building (*CUNY Graduate Center*), contrary to use and bulk regulations. The amendment seeks the elimination of the cellar and other design changes to the Dormitory Building, M1-4/R6A (LIC) zoning district.

PREMISES AFFECTED – 5-11 47th Avenue, 46th Road at north, 47th Avenue at south, 5th Avenue at west, Vernon Boulevard at east, Block 28, Lot 12, 15, 17, 18, 21, 121, Borough of Queens.

COMMUNITY BOARD #2Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an amendment to a previously granted variance which permitted, on a site partially in an M1-4 zoning district and partially in an M1-4/R6A district within the Special Long Island City Mixed-Use District, the construction of a 12-story mixed residential and commercial building (the “Mixed-Use Building”) and a six-story student dormitory building (the “Dormitory Building”) for the City University of New York (“CUNY”) Graduate Center, contrary to use and bulk

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regulations; and

WHEREAS, a public hearing was held on this application on January 28, 2014, after due notice by publication in *The City Record*, and then to decision on February 25, 2014; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Chair Srinivasan, Commissioner Hinkson, and Commissioner Ottley-Brown; and

WHEREAS, the subject site is bounded by Fifth Street to the west, 46th Road to the north, and 47th Avenue to the south, with a total lot area of 66,838 sq. ft.; and

WHEREAS, the Board has exercised jurisdiction over the site since September 23, 2008 when, under the subject calendar number, the Board granted a variance pursuant to ZR § 72-21, which permitted the construction of a 12-story mixed residential and commercial building and a six-story student dormitory building and faculty housing building connected by a cellar-level accessory parking garage, contrary to ZR §§ 42-00, 117-21, 23-145, 24-632, 23-633, and 23-711; and

WHEREAS, the Board issued a letter of substantial compliance on June 10, 2009, to permit certain modifications to the approved plans, and to acknowledge that although the project was originally filed at the Department of Buildings (“DOB”) under a single permit application (NB # 402661945), the project was subsequently filed as two separate projects, with the Mixed-Use Building retaining the original application number, and the Dormitory Building filed under new NB # 420006111; and

WHEREAS, the Board issued a second letter of substantial compliance on December 8, 2009, stating that the Board has no objection to the issuance of a temporary and permanent certificate of occupancy for the Mixed-Use Building prior to the construction of the Dormitory Building and the connection between the buildings; and

WHEREAS, the applicant states that the issuance of the December 8, 2009 letter was based on the anticipated occupancy of the Dormitory Building by the CUNY Graduate Center; however, subsequent to the issuance of the letter, the CUNY Graduate Center withdrew from the project; and

WHEREAS, on February 15, 2011, the Board approved an amendment to clarify that either the Mixed-Use Building or the Dormitory Building may be constructed prior to the construction and occupancy of the other building and the connection between the buildings; and

WHEREAS, the applicant notes that the February 15, 2011 amendment allows each building to proceed independently and provides flexibility for the commencement of construction at the earliest possible time; and

WHEREAS, the applicant also notes that CUNY has resumed participation in the project; and

WHEREAS, substantial construction was to be completed by September 23, 2012, in accordance with ZR § 72-23; however, by that date, construction had not been completed due to budgetary constraints; accordingly, on July 24, 2012, the Board granted an extension of time to complete construction, to expire on September 23, 2016; and

WHEREAS, the applicant now seeks an amendment to permit the following: (1) the elimination of the cellar level of the Dormitory Building, which includes accessory parking for 91 automobiles and approximately 6,600 sq. ft. of amenity and storage space; (2) a reduction in floor area for the Dormitory Building from 183,472 sq. ft. to 177,693 sq. ft.; (3) the elimination of the seventh floor; (4) reduction in size of the stair, elevator, and mechanical bulkheads, and reduction in building height; (5) addition of balconies on the fifth and sixth floors; and (6) minor modifications to interior layouts and roof; and

WHEREAS, specifically, the applicant states that the site is, in the wake of Superstorm Sandy, now within ZONE AE on the Federal Emergency Management Agency’s Flood Insurance Rate Map, which means the site is now considered to be within a high-risk, high-vulnerability zone, making a cellar more expensive to insure; and

WHEREAS, in addition, the applicant states that CUNY has reassessed its needs and determined that parking on the originally-proposed scale is neither necessary, nor desirable; and

WHEREAS, the applicant also notes that the zoning district does not require any parking, and that the area is well-served by mass transit; as such, a significant demand for parking onsite is not anticipated; likewise, what little demand exists can be accommodated by nearby facilities; and

WHEREAS, in support of this statement, the applicant provided a parking study, which reflects that the site will have sufficient parking without the cellar parking garage, due in part to the recent construction of new major parking facilities in the vicinity; and

WHEREAS, as for the other proposed modifications to the plans, the applicant states that they are minor in nature and are consistent with the programmatic needs articulated by the applicant and recognized by the Board in its original grant; and

WHEREAS, accordingly, the applicant states that the proposed amendment will have no negative impacts on the surrounding area; and

WHEREAS, at hearing, the Board requested clarification regarding whether excavation had been performed at the site; and

WHEREAS, in response, the applicant stated that excavation has proceeded and is required under the New York State Department of Environmental Conservation-mandated site-management plan; and

WHEREAS, based upon its review of the record, the Board finds that the requested amendment is appropriate, with certain conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated September 23, 2008, to include the above-noted modifications; *on condition* that the use and operation of the site will comply with BSA-approved plans associated with the prior grant; and *on further condition*:

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

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THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s); and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.” (DOB Application No. 402661945)

Adopted by the Board of Standards and Appeals, February 25, 2014.

11-93-BZ

APPLICANT – Sheldon Lobel, P.C. for Joy Kiss Management, LLC, owner; Chen Qiao Huang (Good fortune Restaurant), lessee.

SUBJECT – Application December 18, 2013 – Extension of Time to obtain a Certificate of Occupancy for a previously approved variance (§72-21), which expired on March 20, 2012; Waiver of the Rules. R3-2/C2-2 zoning district.

PREMISES AFFECTED – 46-45 Kissena Boulevard aka 140-01 Laburnum Avenue, northeast corner of the intersection formed by Kissena Boulevard and Laburnum Avenue, Block 5208, Lot 32, Borough of Queens.

COMMUNITY BOARD #7Q

ACTION OF THE BOARD – Laid over to May 20, 2014, at 10 A.M., for continued hearing.

287-01-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Related Broadway Development LLC, owner; TSI West 94, LLC dba New York Sports club, lessee.

SUBJECT – Application November 20, 2013 – Extension of Term of a previously approved special permit (§73-36) permitting the operation of a physical culture establishment, which expired on April 16, 2011; Waiver of the Rules. C4-6/R8 zoning district.

PREMISES AFFECTED – 2523-2525 Broadway, west side of Broadway between West 93rd Street and West 94th Street, Block 1242, Lot 10, 55, Borough of Manhattan.

COMMUNITY BOARD #7M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5
Negative:.....0

ACTION OF THE BOARD – Laid over to March 25, 2014, at 10 A.M., for decision, hearing closed.

331-04-BZ

APPLICANT – Sheldon Lobel, P.C., for Blue Millennium Realty LLC, owner; Century 21 Department Stores LLC, lessee.

SUBJECT – Application October 24, 2013 – Amendment of a previously approved Variance (§72-21) which permitted the expansion of floor area in an existing commercial structure (*Century 21*). The amendment seeks to permit a rooftop addition above the existing building which exceeds the maximum permitted floor area. C5-5 (LM) zoning district.

PREMISES AFFECTED – 26 Cortlandt Street, located on Cortlandt Street between Church Street and Broadway, Block 6911, Lot 6 & 3. Borough of Manhattan.

COMMUNITY BOARD #1M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5
Negative:.....0

ACTION OF THE BOARD – Laid over to March 11, 2014, at 10 A.M., for decision, hearing closed.

APPEALS CALENDAR

127-13-A

APPLICANT – Law Offices of Marvin B. Mitzner, LLC, for Brusco Group, Inc., owner.

SUBJECT – Application May 1, 2013 – Appeal under Section 310 of the Multiple Dwelling Law to vary MDL Sections 171-2(a) and 2(f) to allow for a vertical enlargement of a residential building. R8 zoning district.

PREMISES AFFECTED – 332 West 87th Street, south side of West 87th Street between West end Avenue and Riverside Drive, Block 1247, Lot 48 Borough of Manhattan.

COMMUNITY BOARD #7M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated April 3, 2013, acting on Department of Buildings (“DOB”) Application No. 110361554 reads, in pertinent part:

1. Proposed heretofore converted dwelling cannot be increased in height or stories as per MDL 171-2(a);
2. Proposed enlargement of the existing heretofore converted dwelling exceeds 25% of the area of the 3rd floor (fourth story) which is contrary to MDL 171-2(f); and

WHEREAS, this is an application pursuant to Multiple Dwelling Law (“MDL”) § 310, to vary height and bulk requirements in order to allow for the proposed partial one-story vertical enlargement of the subject three-story and

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basement residential building, contrary to MDL §§ 171(2)(a) and 171(2)(f); and

WHEREAS, a public hearing was held on this application on July 23, 2013, after due notice by publication in *The City Record*, and then to decision on February 25, 2014; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Commissioner Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, the subject site is located on the south side of West 87th Street, between West End Avenue and Riverside Drive, within an R8 zoning district within the Riverside Drive-West End Historic District; and

WHEREAS, the site has 20 feet of frontage along West 87th Street, a depth of approximately 100.6 feet, and a lot area of 2,013 sq. ft.; and

WHEREAS, the site is occupied by a three-story and basement non-fireproof residential building; and

WHEREAS, the applicant states that the existing building was constructed in approximately 1900 and is currently occupied by eight residential units, with two units per floor; and

WHEREAS, the subject building has a floor area of approximately 5,040 sq. ft. (2.50 FAR) and a height of approximately 47'-0"; and

WHEREAS, the applicant proposes to enlarge the building by constructing a partial fourth floor containing an additional 743.3 sq. ft. of floor area; and

WHEREAS, the applicant states that the front of the proposed fourth floor will include a new, additional unit and the rear will be part of a duplex unit with the third floor; therefore, the proposal will increase the total number of dwelling units in the building from eight to nine; and

WHEREAS, the applicant further states that the proposed enlargement will increase the floor area of the subject building from 5,040 sq. ft. (2.50 FAR) to 5,783.3 sq. ft. (2.87 FAR) and increase the height of the building from 47'-0" to 56'-3"; and

WHEREAS, the applicant notes that the proposed fourth-floor enlargement will be set back 13'-5" from the building's front façade and slanted, so as not to be visible from the street; and

WHEREAS, the applicant also notes that it initially proposed a height of 57'-0", which was reduced at the request of the Landmarks Preservation Commission ("LPC"); and

WHEREAS, MDL § 171(2)(a) states that it is unlawful to "increase the height or number of stories of any converted dwelling or to increase the height or number of stories of any building in converting it to a multiple dwelling"; and

WHEREAS, because any increase in height or number stories of a converted multiple dwelling is prohibited, and the proposed increase of the existing building is from three stories to four stories and from 47'-0" to 56'-3", the Department of Buildings ("DOB") determined that the proposal does not comply with the requirements of MDL § 171(2)(a); and

WHEREAS, MDL § 171(2)(f) states that it is unlawful

to "enlarge or extend any converted dwelling so as to exceed by more than twenty-five per centum the area which such dwelling had on any floor at the time of its conversion . . ."; and

WHEREAS, because the proposed 743.3 sq. ft. enlargement on the fourth floor exceeds 25 percent of the area on the third floor, DOB determined that the proposal does not comply with the requirements of MDL § 171(2)(f); and

WHEREAS, pursuant to MDL § 310(2)(a), the Board has the authority to vary or modify certain provisions of the MDL for multiple dwellings that existed on July 1, 1948, provided that the Board determines that strict compliance with such provisions would cause practical difficulties or unnecessary hardships, and that the spirit and intent of the MDL are maintained, public health, safety and welfare are preserved, and substantial justice is done; and

WHEREAS, as noted above, the subject building was constructed in approximately 1900; therefore, the building is subject to MDL § 310(2)(a); and

WHEREAS, specifically, MDL § 310(2)(a) empowers the Board to vary or modify provisions or requirements related to: (1) height and bulk; (2) required open spaces; (3) minimum dimensions of yards or courts; (4) means of egress; and (5) basements and cellars in tenements converted to dwellings; and

WHEREAS, the Board notes that MDL §§ 171(2)(a) and 171(2)(f) relate to height and bulk; therefore the Board has the power to vary or modify the subject provisions pursuant to MDL § 310(2)(a)(1); and

WHEREAS, the applicant represents that practical difficulty and unnecessary hardship would result from strict compliance with the MDL; and

WHEREAS, the applicant states that MDL §§ 171(2)(a) and 171(2)(f) prohibit a vertical enlargement of the subject building and that the third floor cannot practicably be enlarged horizontally to make up for this deficit because the existing building is located within an historic district and the LPC will not approve a third floor horizontal expansion; and

WHEREAS, the applicant represents that because a vertical enlargement is not permitted and a horizontal enlargement is impracticable, the MDL restrictions create a practical difficulty and an unnecessary hardship in that they prevent the site from utilizing the development potential afforded by the subject zoning district; and

WHEREAS, in particular, the applicant notes that the subject district permits an FAR of 6.02, and the proposed enlargement would increase the FAR of the building from 2.50 to 2.87; and

WHEREAS, based on the above, the Board agrees that there is a practical difficulty and an unnecessary hardship in complying with the requirements of the MDL; and

WHEREAS, the applicant states that the requested variance of MDL §§ 171(2)(a) and 171(2)(f) is consistent with the spirit and intent of the MDL, and will preserve public health, safety and welfare, and substantial justice; and

WHEREAS, specifically, the applicant states that the proposal includes numerous fire safety improvements to

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mitigate the existing fire infirmities inherent in the pre-1929 building; and

WHEREAS, the applicant notes that MDL § 2 (“Legislative Finding”) provides that the intent of the law is to protect against dangers such as “overcrowding of multiple dwelling rooms, inadequate provision for light and air, and insufficient protection against the defective provision for escape from fire . . .”; and

WHEREAS, accordingly, the applicant represents that the proposed construction promotes the intent of the law because: (1) the new unit will cause minimal impact, as it will increase the unit count to nine, which is well below the 16 total permitted units in a building in an R8 zone; (2) it will be modest in size and set back from the front and rear facades, thereby providing sufficient light and air to the proposed fourth floor without diminishing access to light and air for other units in the building; and (3) it will provide a number of significant fire safety improvements; and

WHEREAS, specifically, the applicant proposes to provide the following fire safety improvements: (1) sprinklers will be added to all common areas of the building; (2) new, steel stair ways will be installed; (3) all existing wood stair rails will be replaced with metal; (4) all doors leading to the apartments and cellar will have one-and-one-half-hour fireproof self-closing doors; (5) all public halls will have a new two-hour rated enclosure by an additional new layer of fire resistant gypsum board; (6) two layers of fire resistant gypsum board will be installed in the cellar ceiling; (7) a new layer of fire resistant gypsum board will be installed to the underside of the existing staircases and landings; and (8) all bedrooms will have ceiling mounted hard-wired smoke detectors and carbon-monoxide detectors; and

WHEREAS, the applicant represents that the proposed fire safety measures will result in a substantial increase to the public health, safety, and welfare, which far outweighs any impact from the proposed enlargement; and

WHEREAS, based on the above, the Board finds that the proposed variance to the height and bulk requirements of MDL §§ 171(2)(a) and 171(2)(f) will maintain the spirit and intent of the MDL, preserve public health, safety and welfare, and ensure that substantial justice is done; and

WHEREAS, the applicant represents that the proposal will not affect the historical character of the site; and

WHEREAS, the applicant submitted a Certificate of Appropriateness from the LPC approving work associated with the proposed enlargement, dated February 5, 2014; and

WHEREAS, at hearing, the Board expressed concerns regarding the dimensions of the proposed dwelling units; and

WHEREAS, in response, the applicant submitted an amended statement clarifying the dimensions of the proposed units and confirming that such units meet the minimum requirements set forth in the Zoning Resolution; and

WHEREAS, accordingly, the Board finds that the applicant has submitted adequate evidence in support of the findings required to be made under MDL § 310(2)(a) and that

the requested variance of the height and bulk requirements of MDL §§ 171(2)(a) and 171(2)(f) is appropriate, with certain conditions set forth below.

Therefore it is Resolved, that the decision of the Manhattan Borough Commissioner, dated April 3, 2013, is modified and that the requested waivers are granted, limited to the decision noted above; *on condition* that construction will substantially conform to the plans filed with the application marked, "Received February 21, 2014" eight (8) sheets; and *on further condition*:

THAT the bulk parameters of the building will be as follows: 5,783.3 sq. ft. (2.87 FAR); nine dwelling units; and a maximum building height of 56'-3", as reflected in the BSA-approved plans;

THAT the dimensions of the proposed dwelling units will be subject to DOB review;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB objections related to the MDL;

THAT the approved plans will be considered approved only for the portions related to the specific relief granted; and

THAT the DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, February 25, 2014.

214-13-A

APPLICANT – Slater & Beckerman, P.C., for Jeffrey Mitchell, owner.

SUBJECT – Application July 15, 2013 – Appeal seeking a determination that the owner has acquired a common law vested right to complete construction under the prior R3-2 zoning district. R3-X zoning district.

PREMISES AFFECTED – 219-08 141st Avenue, south side of 141st Avenue between 219th Street and 222nd Street, Block 13145, Lot 15, Borough of Queens.

COMMUNITY BOARD #13Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application requesting a Board determination that the owner of the premises has obtained the right to complete construction of a two-story, two-family residential building under the common law doctrine of vested rights; and

WHEREAS, a public hearing was held on this application on January 28, 2014, after due notice by publication in *The City Record*, and then to decision on

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February 25, 2014; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Commissioner Hinkson and Commissioner Montanez; and

WHEREAS, the subject site is located on the corner of the intersection of 141st Avenue and 219th Street, within an R3X zoning district; and

WHEREAS, the site has 100 feet of frontage along 141st Avenue, 59.88 feet of frontage along 219th Street, and a lot area of 6,455 sq. ft.; and

WHEREAS, the site is a single zoning lot comprising Lots 14 and 15; and

WHEREAS, Lot 14 is occupied by a two-story single-family dwelling with 1,942 sq. ft. of floor area; Lot 15 is occupied by a two-story, two-family dwelling (the "Building") with 1,920 sq. ft. of floor area, which was constructed as a semi-detached building with the existing dwelling on Lot 14 pursuant to permits that were initially issued in 2006; therefore, the total floor area proposed for the site is 3,862 sq. ft. (0.59 FAR); and

WHEREAS, the applicant represents that the Building complies with the parameters of the former R3-2 zoning district, as well as the open space provisions of the Zoning Resolution prior to the April 30, 2008 citywide text amendment; and

WHEREAS, on July 27, 2006, Alteration Permit No. 402424747-01-NB (the "New Building Permit") was issued by the Department of Buildings ("DOB") permitting construction of the Building; and

WHEREAS, however, on April 30, 2008, (the "Text Enactment Date"), the City Council voted to adopt the Yards Text Amendment (the "Text Amendment"), which increased the amount of open space required on the site; later that year, on September 4, 2008 (the "Rezoning Date"), the City Council voted to adopt the Laurelton Rezoning, which zoned the site from an R3-2 zoning district to an R3X zoning district; and

WHEREAS, the Building, which is a two-family, semi-detached building with side yard widths of 8'-0" and 16'-9", a front yard depth of 17'-0", and a rear yard with a depth of 16'-9", does not comply with the current zoning, which allows only single- and two-family detached buildings and requires two side yards with minimum widths of 10'-0" and 20'-0", a minimum front yard depth of 18'-0", and a minimum rear yard depth of 30'-0"; and

WHEREAS, as of the Text Enactment Date, which, as noted above, preceded the Rezoning Date, the applicant had obtained permits but had not completed construction; and

WHEREAS, the applicant represents that although it completed foundations in September 2007, construction stalled in 2008 and the Building was not completed within two years of the Text Enactment Date (or the Rezoning Date); and

WHEREAS, accordingly, the applicant now seeks recognition of a vested right to complete construction pursuant to the common law doctrine of vested rights; and

WHEREAS, a threshold matter for the vested rights analysis is that a permit be issued lawfully prior to the Text

Enactment Date and the Rezoning Date and that the work was performed pursuant to such lawful permit; and

WHEREAS, by letter dated November 15, 2013, DOB stated that the New Building Permit was lawfully issued, authorizing construction of the proposed Building prior to the Text Enactment Date (and the Rezoning Date); and

WHEREAS, the Board notes that when work proceeds under a lawfully-issued permit, a common law vested right to continue construction after a change in zoning generally exists if: (1) the owner has undertaken substantial construction; (2) the owner has made substantial expenditures; and (3) serious loss will result if the owner is denied the right to proceed under the prior zoning; and

WHEREAS, specifically, as held in Putnam Armonk, Inc. v. Town of Southeast, 52 A.D.2d 10 (2d Dept. 1976), where a restrictive amendment to a zoning ordinance is enacted, the owner's rights under the prior ordinance are deemed vested "and will not be disturbed where enforcement [of new zoning requirements] would cause 'serious loss' to the owner," and "where substantial construction had been undertaken and substantial expenditures made prior to the effective date of the ordinance"; and

WHEREAS, however, notwithstanding this general framework, as discussed by the court in Kadin v. Bennett, 163 A.D.2d 308 (2d Dept. 1990) "there is no fixed formula which measures the content of all the circumstances whereby a party is said to possess 'a vested right'. Rather, it is a term which sums up a determination that the facts of the case render it inequitable that the State impede the individual from taking certain action"; and

WHEREAS, as noted above, the applicant obtained a permit to construct the Building and performed certain work prior to the Text Enactment Date and the Rezoning Date; and

WHEREAS, specifically, the applicant states that the work it performed constitutes substantial construction, in that, prior to the Text Enactment Date and the Rezoning Date, it completed the excavation, footings, foundation, exterior walls, and roof construction; and

WHEREAS, in support of this statement, the applicant has submitted the following: a breakdown of the construction costs by line item; copies of cancelled checks; construction permits and inspection reports; contractor payment requests; photographs of the site; and an affidavit from the owner of the site attesting to the timing and nature of the work performed prior to the Text Enactment Date and the Rezoning Date; and

WHEREAS, the Board has reviewed the representations as to the amount and type of work completed before the Text Enactment Date and the Rezoning Date and the documentation submitted in support of these representations, and agrees that it establishes that substantial work was performed; and

WHEREAS, as to expenditure, the Board notes that unlike an application for relief under ZR § 11-30 *et seq.*, soft costs and irrevocable financial commitments can be considered in an application under the common law and accordingly, these costs are appropriately included in the

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applicant's analysis; and

WHEREAS, the applicant represents that the total expenditure paid for construction of the Building is \$153,044.50, or approximately 54 percent, out of the \$282,850 cost to complete; and

WHEREAS, as noted, the applicant has submitted a breakdown of costs and expenditures, copies of cancelled checks, and an affidavit in support of this representation; and

WHEREAS, the Board considers the amount of expenditures significant, both for a project of this size, and when compared with the development costs; and

WHEREAS, again, the Board's consideration is guided by the percentages of expenditure cited by New York courts considering how much expenditure is needed to vest rights under a prior zoning regime; and

WHEREAS, as to serious loss, the Board examines not only whether certain improvements and expenditures could not be recouped under the new zoning, but also considerations such as the diminution in income that would occur if the new zoning were imposed and the reduction in value between the proposed building and the building permitted under the new zoning; and

WHEREAS, the applicant states that the owner would incur a loss of \$233,044.50 if the Building must be modified to comply with the post-Text Amendment open space requirements and the R3X district regulations; specifically, as noted above, wider side yards and deeper front and rear yards would be required; and

WHEREAS, therefore, the applicant states that the Building would have to be completely demolished at a cost of \$80,000; because the owner has already spent \$153,044.50, the applicant states that that entire amount would be lost as well; further, constructing the new, complying building is estimated to cost \$259,000; and

WHEREAS, the applicant also notes that because the owner currently resides in the building on Lot 14 and has mortgaged the entire lot, having to build a complying building on the site instead of the Building would jeopardize the owner's ability to finance both buildings; and

WHEREAS, accordingly, the applicant represents that complying with the current zoning regulations would result in a serious loss to the owner; and

WHEREAS, the Board agrees that complying with the open space requirements of the Text Amendment and the R3X district regulations would result in a serious economic loss for the applicant; and

WHEREAS, in sum, the Board has reviewed the representations as to the work performed and the expenditures made before the Text Enactment Date and the Rezoning Date, the representations regarding serious loss, and the supporting documentation for such representations, and agrees that the applicant has satisfactorily established that a vested right to complete construction of the Building has accrued to the owner of the premises.

Therefore it is Resolved, that this application made pursuant to the common law doctrine of vested rights

requesting a reinstatement of Permit No. 402424747-01-NB, as well as all related permits for various work types, either already issued or necessary to complete construction and obtain a certificate of occupancy, is granted for four years from the date of this grant.

Adopted by the Board of Standards and Appeals, February 25, 2014.

300-13-A

APPLICANT – Goldman Harris LLC, for LSG Fulton Street LLC, owner.

SUBJECT – Application November 7, 2013 – Proposed construction of a mixed-use development to be located partially within the bed of a mapped but unbuilt portion of Fulton Street, contrary to General City law Section 35 and the bulk regulations pursuant to §72-01-(g). C5-5/C6-4 zoning district.

PREMISES AFFECTED – 112,114 & 120 Fulton Street, Three tax lots fronting on Fulton Street between Nassau and Dutch Streets in lower Manhattan. Block 78, Lot(s) 49, 7501 & 45. Borough of Manhattan.

COMMUNITY BOARD #1M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez

Negative:.....5

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated November 12, 2013, acting on Department of Buildings Application No. 121333440, reads in pertinent part:

1. Proposed new building does not comply with bulk regulations resulting from the location of the street as per ZR 91-32 Setback regulations for Special Lower Manhattan District; for "Type 3" as defined on Map 2n Appendix A #street walls #, the required setbacks shall be measured from a line drawn at or parallel to the #street line# so that at least 70 percent of the aggregate width of street walls# of the building at the minimum base height are within such line and the #street line# (street widening line);
2. Proposed development which rests partially within the bed of the mapped street is contrary to GCL 35; and

WHEREAS, a public hearing was held on this application on January 28, 2014 after due notice by publication in *The City Record*, and then to decision on February 25, 2014; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Chair Srinivasan, Commissioner Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

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WHEREAS, this is an application to allow the construction of 62-story mixed residential and commercial building, which will be partially located within the widening area for Fulton Street; and

WHEREAS, the subject site is located on the south side of Fulton Street between Nassau Street and Dutch Street, partially within a C5-5 zoning district and partially within a C6-4 zoning district, within the Special Lower Manhattan District; and

WHEREAS, the site comprises three tax lots (Tentative Lots 45, 49, and 7501) with a combined frontage of approximately 125 feet along Fulton Street; and

WHEREAS, the site has 10,378 sq. ft. of lot area, with about 45 percent of the lot area (4,625 sq. ft.) located within the widening area of Fulton Street; and

WHEREAS, the applicant states that, in connection with the proposed development, the site has been declared a single zoning lot with the following parcels: 122 Fulton Street; 80, 86 and 88 Nassau Street; 41-43 John Street; and 15 Dutch Street (Block 78, Lots 44, 7503, 40, 42, 7502, and 7504); and

WHEREAS, by letter dated December 23, 2013, the Fire Department states that it has reviewed the proposal and does not have any objections; and

WHEREAS, by letter dated November 25, 2013, the Department of Environmental Protection (“DEP”) states that: (1) there is an existing 20-inch diameter and a 24-inch diameter City water main in the bed of Fulton Street; (2) there is an existing 18-inch diameter and 14-inch diameter combined sewers in the bed of Fulton Street between Nassau Street and Dutch Street; (3) Modified City Drainage Plan for Sewage District No. 22CL, dated May 3, 1928, calls for a future four-ft. combined sewer to be installed in Fulton Street between Nassau Street and Dutch Street; and

WHEREAS, DEP further states that it requires the applicant to submit a survey/plan showing: (1) the width of mapped Fulton Street and the width of the widening portions of the street; (2) the distance between the 18-inch diameter and 14-inch diameter combined sewers in the bed of Fulton Street between Nassau Street and Dutch Street; and (3) the location and the distance from the lot line to the existing fire hydrant; and

WHEREAS, in response to DEP’s request, the applicant submitted a revised survey, dated December 9, 2013; the revised survey shows the 90 feet of the total width of the mapped portion of Fulton Street between Nassau Street and Dutch Street, as well as the 55-ft. of the width of the traveled portion of Fulton Street, which will be available for the maintenance and/or reconstruction of the existing sewers, water mains, and the installation of any future sewers; and

WHEREAS, by letter dated January 10, 2014, DEP states that, based on its review of the applicant’s response, it has no objections to the proposal; and

WHEREAS, by correspondence dated January 8, 2014, the Department of Transportation (“DOT”) states that: (1) according to the Manhattan Borough President’s Topographical Bureau, Fulton Street from Dutch Street to Nassau Street is mapped at a 90-ft. width on the Final City

Map; (2) the City does not have title to the southerly portion within Block 78; and (3) construction within the bed of Fulton Street is not presently included in DOT’s Capital Improvement Program; and

WHEREAS, in addition, DOT recommends that the proposed building’s footprint be set back from the existing building line to allow for a widened sidewalk to reduce pedestrian congestion; and

WHEREAS, by letter dated January 14, 2014, the applicant responds that Fulton Street is classified as a Type 3 street for the purposes of applying the Special Lower Manhattan District street wall regulations, and that, per ZR § 91-31(b), at least 70 percent of the aggregate width of street walls on Type 3 streets must be located within ten feet of the street line; accordingly, a setback cannot be provided as requested by DOT without the creation of a zoning non-compliance; and

WHEREAS, therefore, the applicant states that the footprint of the building will not be altered in accordance with DOT’s request, because doing so would require a variance; further, the applicant states that the proposed streetwall maintains the existing, historic character of the streetscape; and

WHEREAS, in addition, in accordance with the Special Lower Manhattan District requirements (ZR § 91-42), the proposal must provide pedestrian circulation space, which, in effect, will further the same goal—reduced pedestrian congestion—as the setback streetwall and widened sidewalk recommended by DOT; and

WHEREAS, the Board notes that pursuant to GCL Section 35, it may authorize construction within the bed of the mapped street subject to reasonable requirements; and

WHEREAS, the Board notes that pursuant to ZR § 72-01(g), the Board may waive bulk regulations where construction is proposed in part within the bed of a mapped street; such bulk waivers will be only as necessary to address non compliances resulting from the location of construction within and outside of the mapped street, and the zoning lot will comply to the maximum extent feasible with all applicable zoning regulations as if the street were not mapped; and

WHEREAS, in particular, the Board notes that, if the built width of Fulton Street (rather than its wider, mapped width) were used to measure the setbacks required under ZR § 91-32, such setbacks would comply; and

WHEREAS, therefore, consistent with GCL § 35 and ZR § 72-01(g), the Board finds that applying the bulk regulations across the portion of the subject lot within the mapped street and the portion of the subject lot outside the mapped street as if the lot were unencumbered by a mapped street is both reasonable and necessary to allow the proposed construction; and

WHEREAS, accordingly, the Board has determined that the applicant has submitted adequate evidence to warrant this approval under certain conditions

Therefore it is Resolved, that the Board modifies the decision of the Manhattan Borough Commissioner, dated

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November 12, 2013, acting on Department of Buildings Application No. 121333440, by the power vested in it by Section 35 of the General City Law, and also waives the bulk regulations associated with the presence of the mapped but unbuilt street pursuant to Section 72-01(g) of the Zoning Resolution to grant this appeal, limited to the decision noted above *on condition* that construction will substantially conform to the drawing filed with the application marked "Received February 3, 2014 (1) sheet; and *on further condition*:

THAT DOB will review and approve plans associated with the Board's approval for compliance with the underlying zoning regulations as if the unbuilt portion of the street were not mapped;

THAT DOB will not issue a Certificate of Occupancy until DEP has signed off on the amended drainage plan;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

THAT DOB will review the proposed plans to ensure compliance with all relevant provisions of the Zoning Resolution;

THAT the approved plans will be considered approved only for the portions related to the specific relief granted; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals on February 25, 2014.

143-11-A thru 146-11-A

APPLICANT – Philip L. Rampulla, for Joseph LiBassi, owner.

SUBJECT – Application September 16, 2011 – Appeal challenging the Fire Department's determination that the grade of the fire apparatus road shall not exceed 10 percent, per NYC Fire Code Section FC 503.2.7. R2 zoning district. PREMISES AFFECTED – 20, 25, 35, 40 Harborlights Court, east side of Harborlights Court, east of Howard Avenue, Block 615, Lot 36, 25, 35, 40, Borough of Staten Island.

COMMUNITY BOARD #1SI

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5
Negative:.....0

ACTION OF THE BOARD – Laid over to April 29, 2014, at 10 A.M., for decision, hearing closed.

110-13-A

APPLICANT – Abrams Fensterman, LLP, for Laurence Helmarth and Mary Ann Fazio, owners.

SUBJECT – Application April 24, 2013 – Appeal challenging Department of Buildings' interpretation of the Building Code regarding required walkway around a below-grade pool. R6B zoning district.

PREMISES AFFECTED – 120 President Street, between Hicks Street and Columbia Street, Block 348, Lot 22, Borough of Brooklyn.

COMMUNITY BOARD #6BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5
Negative:.....0

ACTION OF THE BOARD – Laid over to March 25, 2014, at 10 A.M., for decision, hearing closed.

307-13-A & 308-13-A

APPLICANT – Joseph M. Morace, R.A., for Jake Rock, LLC, owner.

SUBJECT – Application November 21, 2013 – Proposed construction of two detached, two-family residences not fronting on a mapped street, contrary to Section 36 of the General City Law. R3A zoning district.

PREMISES AFFECTED – 96 & 100 Bell Street, Block 2989, Lot 24 & 26, Borough of Staten Island.

COMMUNITY BOARD #1SI

ACTION OF THE BOARD – Laid over to March 25, 2014, at 10 A.M., for continued hearing.

ZONING CALENDAR

6-12-BZ

APPLICANT – Syeda Laila, owner.

SUBJECT – Application January 13, 2013 – Variance (§72-21) to permit a four-story residential building, contrary to floor area, (§103-211), dwelling unit (§23-22), front yard (§23-46), side yard (§23-46) and height (§23-631) regulations. R4 zoning district.

PREMISES AFFECTED – 39-06 52nd Street aka 51-24 39th Avenue, Block 128, Lot 39, 40, Borough of Queens.

COMMUNITY BOARD #2Q

ACTION OF THE BOARD – Application withdrawn.

Adopted by the Board of Standards and Appeals, February 25, 2014.

69-12-BZ

APPLICANT – Eric Palatnik, Esq., for Ocher Realty, LLC, owner.

SUBJECT – Application March 22, 2012 – Variance (§72-21) to allow for the construction of residential building, contrary to use regulations (§32-00). C8-2 zoning district.

PREMISES AFFECTED – 1 Maspeth Avenue, east side of Humboldt Street, between Maspeth Avenue and Conselyea

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Street, Block 2892, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #1BK

ACTION OF THE BOARD – Application withdrawn.

Adopted by the Board of Standards and Appeals,
February 25, 2014.

95-13-BZ

CEQR #13-BSA-113X

APPLICANT – Eric Palatnik, PC, for Lai Ho Chen, owner;
Tech International Charter School, lessee.

SUBJECT – Application April 2, 2013 – Variance (§72-21)
to permit the enlargement of an existing school (UG 3) at the
second floor, contrary to §24-162. R6/C1-3 and R6 zoning
districts.

PREMISES AFFECTED – 3120 Corlear Avenue, Corlear
Avenue and West 231st Street, Block 5708, Lot 64,
Borough of Bronx.

COMMUNITY BOARD #8BX

ACTION OF THE BOARD – Application granted on
condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins,
Commissioner Ottley-Brown, Commissioner Hinkson and
Commissioner Montanez5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Bronx Borough
Commissioner, dated March 20, 2013, acting on Department
of Buildings Application No. 200928979, reads in pertinent
part:

ZR 24-162 – proposed floor area for the
community facility use exceeds maximum
(permitted) floor area; and

WHEREAS, this is an application under ZR § 72-21, to
permit, on a site within an R6 (C1-3) zoning district, the
enlargement of an existing ten-story mixed residential,
community facility and commercial building (Use Groups 2,
3, and 6) that does not comply with regulations regarding
maximum community facility floor area ratio, contrary to ZR
§ 24-162; and

WHEREAS, the application is brought on behalf of the
Technical International Charter School (the “School”), a non-
profit educational institution; and

WHEREAS, a public hearing was held on this
application on November 19, 2013 after due notice by
publication in the *City Record*, with a continued hearing on
January 28, 2014, and then to decision on February 25, 2014;
and

WHEREAS, the site and surrounding area had site and
neighborhood examinations by Chair Srinivasan,
Commissioner Hinkson, and Commissioner Ottley-Brown;
and

WHEREAS, Community Board 8, Bronx, recommends
approval of this application; and

WHEREAS, the subject site is a flag-shaped lot with
frontages along Corlear Avenue and West 231st Street, within

an R6 (C1-3) zoning district; and

WHEREAS, the site has 118 feet of frontage along
Corlear Avenue, 35 feet of frontage along West 231st Street,
and approximately 15,038 sq. ft. of lot area; and

WHEREAS, the site is a single zoning that comprises
Tax Lots 64 and 110; Lot 64 is occupied by a one-story
commercial building (Use Group 6) with 4,665 sq. ft. of floor
area; Lot 110 is occupied by a ten-story mixed residential,
community facility and commercial (Use Groups 2, 3, and 6)
building (the “Main Building”) with 48,233 sq. ft. of floor
area (15,019 sq. ft. of community facility floor area, 32,801
sq. ft. of residential floor area, 413 sq. ft. of commercial floor
area); the zoning lot has a total floor area of 52,898 sq. ft.
(3.52 FAR); and

WHEREAS, the Main Building includes, at the sub-
cellar, 32 accessory parking spaces; at the cellar, an office, an
ambulatory health facility, and storage; at the first story, a
residential lobby, six accessory parking spaces, and the
School; at the second story, 19 accessory parking spaces, at
the third story, the School; and on stories four through ten,
residential (48 dwelling units); and

WHEREAS, the applicant seeks to convert the second
story of the Main Building from parking to program space for
the School, resulting in an increase in community facility floor
area from 15,019 sq. ft. (1.0 FAR) to 22,219 sq. ft. (1.48
FAR); and

WHEREAS, the applicant states that while the
maximum permitted FAR on the lot is 4.8 FAR, the maximum
permitted community facility FAR on the lot is 1.0 FAR and
the existing community facility floor area is 15,019 sq. ft. (1.0
FAR); therefore, the community facility in the Main Building
cannot be increased as-of-right and the applicant seeks a
variance; and

WHEREAS, the applicant notes that the proposed
increase in community facility floor area is entirely within the
existing building envelope; and

WHEREAS, the applicant states that the School is
authorized under its charter to teach sixth, seventh and eighth
graders using a technology-based curriculum, including lab
periods and project development, to complement the
traditional middle school coursework in language arts,
mathematics, science, history, music, art, English-as-a-
Second-Language (“ESL”), and special education; and

WHEREAS, the applicant represents that it has a staff of
20 full-time employees and three part-time employees,
including eight full-time teachers, and it operates Monday
through Friday, from 8:00 a.m. to 5:00 p.m.; and

WHEREAS, however, the applicant states that due to
the School’s lack of program space, it can only accommodate
sixth and seventh grades (214 total students) in its 12
classrooms at the first (six classrooms) and third (six
classrooms) stories of the Main Building; and

WHEREAS, the applicant also states that the School has
experienced substantial growth since opening in September
2013 and that it anticipates enrollment of an additional 88
students in September 2014, which would bring enrollment to
302; and

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WHEREAS, the applicant represents that the proposed enlargement will provide for four new classrooms and a gymnasium at the second story, which, along with other proposed as-of-right renovations within the Main Building cellar, will bring the total number of classrooms to 17; further, the School notes that the proposal will allow it to accommodate up to 330 students, which is the targeted number for the School under its charter; and

WHEREAS, the applicant represents that absent the requested variance, the School would lack sufficient space to meet its programmatic needs; and

WHEREAS, the applicant states that an as-of-right renovation that does not increase the community facility floor area would result in only 15 classrooms and no gymnasium, and it would result in the School's eighth graders being sent to another school; and

WHEREAS, the applicant represents that a gymnasium is essential to its program, in that its middle school-aged children benefit from, and are required under state law to, participate in daily physical activities; and

WHEREAS, the applicant states that without an onsite gymnasium, it would be forced to take students to a recreation facility offsite, which results in additional staffing costs and safety concerns, since students would be forced to leave campus; and

WHEREAS, as to the School's eighth graders being sent to a different school because of space constraints, the applicant asserts that such an occurrence would jeopardize the School's charter and negatively impact its existing students and create a hardship for their families; and

WHEREAS, the Board acknowledges that the School, as an educational institution, is entitled to significant deference under the law of the State of New York as to zoning and as to its ability to rely upon programmatic needs in support of the subject variance application; and

WHEREAS, specifically, as held in Cornell Univ. v. Bagnardi, 68 N.Y.2d 583 (1986), an educational institution's application is to be permitted unless it can be shown to have an adverse effect upon the health, safety, or welfare of the community, and general concerns about traffic, and disruption of the residential character of a neighborhood are insufficient grounds for the denial of an application; and

WHEREAS, the Board finds that the School's programmatic needs are legitimate and agrees that the proposed enlargement is necessary to address its needs, given the current unique conditions that constrain the site; and

WHEREAS, accordingly, based on the above, the Board finds that the programmatic needs of the School create an unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, since the School is a non-profit educational institution and the variance is requested to further its non-profit mission, the finding set forth at ZR § 72-21(b) does not have to be made in order to grant the variance requested in this application; and

WHEREAS, the applicant represents that, per ZR § 72-21(c), the variance, if granted, will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare; and

WHEREAS, the applicant states that the surrounding area is characterized by low- to medium-density residential and community facility uses, with commercial uses along major streets; and

WHEREAS, the applicant states that schools in particular are well-represented, and submitted a Land Use Study in support of that statement, which reflects that there are seven schools within three blocks of the site; and

WHEREAS, the applicant notes that the school already exists at the site and is permitted as-of-right in the subject R6 (C1-3) zoning district; and

WHEREAS, as to bulk, the applicant notes that the community facility enlargement authorized by the variance will occur entirely within the Main Building, which complies in all other respects with the bulk regulations, including residential and commercial floor area (as does the entire zoning lot); as such, the applicant states that the proposal will have no impact on surrounding uses; and

WHEREAS, as to the impact of reducing the number of accessory parking spaces on the zoning lot, the applicant states that the elimination of 19 parking spaces to accommodate the School's program space leaves the zoning lot with 38 spaces, which is four more than the minimum number required under ZR §§ 25-23 and 36-21; and

WHEREAS, accordingly, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the applicant represents and the Board agrees that the hardship was not self-created and inherent in the unique programmatic needs of the School, in accordance with ZR § 72-21(d); and

WHEREAS, the applicant represents that, consistent with ZR § 72-21(e), the requested waiver is the minimum necessary to accommodate the programmatic needs of the School; and

WHEREAS, the Board finds that the requested relief is the minimum necessary to allow the School to fulfill its programmatic needs; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR §§ 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 13BSA113X, dated March 26, 2013; and

WHEREAS, the EAS documents that the operation of the PCE would not have significant adverse impacts on Land

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Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site within an R6 (C1-3) zoning district, the enlargement of an existing ten-story mixed residential, community facility and commercial building (Use Groups 2, 3, and 6) that does not comply with regulations regarding maximum community facility floor area ratio, contrary to ZR § 24-162, *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received February 4, 2014"- Twelve (12) sheets"; *on further condition*:

THAT the community facility floor area will not exceed 22,219 sq. ft. (1.48 FAR) and that a minimum of 38 accessory parking spaces will be provided, as shown on the BSA-approved plans;

THAT construction will proceed in accordance with ZR § 72-23; and

THAT the approved plans will be considered approved only for the portions related to the specific relief granted;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

HAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, February 25, 2014.

153-13-BZ

CEQR #13-BSA-138K

APPLICANT – Eric Palatnik, PC, for Williamsburg Workshop, LLC, owner; Romi Ventures, LLC, lessee.

SUBJECT – Application May 10, 2013 – Special Permit (§73-36) to permit the legalization of a physical culture establishment (*Soma Health Club*) contrary to §32-10. C4-3 zoning district.

PREMISES AFFECTED – 107 South 6th Street, between Berry Street and Bedford Avenue, Block 2456, Lot 34, Borough of Brooklyn.

COMMUNITY BOARD #1BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated April 10, 2013, acting on Department of Buildings Application No. 320522911, reads in pertinent part:

Proposed change of use to physical culture establishment is contrary to ZR 32-10; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located within a C4-3 zoning district, the legalization of an existing physical culture establishment ("PCE") in portions of the cellar, first, and second floors of an existing four-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on December 10, 2013, after due notice by publication in *The City Record*, with a continued hearing on January 28, 2014, and then to decision on February 25, 2014; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Commissioner Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 1, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the north side of South 6th Street, between Berry Street and Bedford Avenue, within a C4-3 zoning district; and

WHEREAS, the site has 84.17 feet of frontage along South 6th Street and approximately 5,516 sq. ft. of lot area; and

WHEREAS, the site is occupied by a four-story commercial building; and

WHEREAS, the PCE occupies 5,516.35 sq. ft. of floor area on the first floor, 4,878 sq. ft. of floor area on the second floor, and an additional 5,516.35 sq. ft. of floor space in the cellar, for a total PCE floor space of 15,910.7 sq. ft.; and

WHEREAS, the applicant notes that the PCE has been

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in operation since February 1, 2010; and

WHEREAS, the PCE is currently operated as Soma Health Club; and

WHEREAS, the applicant represents that the services at the PCE include facilities for instruction and programs for physical improvement; the applicant states that massages will not be performed at the PCE; and

WHEREAS, the hours of operation for the PCE will be Monday through Thursday, from 5:30 a.m. to 11:00 p.m., Friday from 5:00 a.m. to 10:00 p.m., Saturday, from 7:00 a.m. to 8:00 p.m., and Sunday, from 8:00 a.m. to 8:00 p.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither alter the essential character of the surrounding neighborhood, nor impair the use or development of adjacent properties, nor be detrimental to the public welfare; and

WHEREAS, at hearing, the Board directed the applicant to clarify the status of: (1) the active vacate order on the building; and (2) the open DOB violations at the site; and

WHEREAS, in response, the applicant submitted a letter from the owner regarding the vacate order, which was issued for residential occupancy on the third and fourth floors of the building contrary to the certificate of occupancy and without a second means of egress; the owner represents that there has not been residential occupancy since 2011 and that, in November 2013, permits were obtained and work commenced on the restoration of the fire escape to the third and fourth floors and the demolition of the partitions and plumbing related to the residential occupancy; the owner also states that after the work has been completed, the vacate order will be rescinded; and

WHEREAS, as to the open violations, the applicant states that only three of the 18 violations are PCE-related, and that such violations will be resolved following the issuance of the special permit; the applicant notes that the other violations are related to the illegal residential occupancy; and

WHEREAS, the Board notes that the term of this grant has been reduced to reflect the operation of the PCE without the special permit; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings

pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 13BSA138K, dated May 10, 2013; and

WHEREAS, the EAS documents that the operation of the PCE would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03 to permit, on a site located within a C4-3 zoning district, the legalization of an existing PCE in portions of the cellar, first, and second floors of an existing four-story commercial building, contrary to ZR § 32-10; *on condition* that all work will substantially conform to drawings filed with this application marked "Received October 16, 2013" – Five (5) sheets; and *on further condition*:

THAT the term of this grant will expire on February 1, 2020;

THAT there will be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT the above conditions will appear on the Certificate of Occupancy;

THAT Local Law 58/87 compliance will be as reviewed and approved by DOB;

THAT fire safety measures will be installed and/or maintained as shown on the Board-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

THAT the approved plans will be considered approved only for the portions related to the specific relief granted; and

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THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, February 25, 2014.

220-13-BZ

APPLICANT – Law Office of Jay Goldstein, PLLC, for Yitzchok Perlstein, owner.

SUBJECT – Application July 22, 2013 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area and open space (§23-141(a)); side yard (§23-461) and less than the required rear yard (§23-47). R-2 zoning district.

PREMISES AFFECTED – 2115 Avenue J, north side of Avenue J between East 21st and East 22nd Street, Block 7585, Lot 3, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5
Negative:.....0

WHEREAS, the decision of the Brooklyn Borough Commissioner of the New York City Department of Buildings (“DOB”), dated January 21, 2014, acting on DOB Application No. 320771660, reads in pertinent part:

1. Proposed floor area is contrary to ZR 23-141(a) in that the proposed FAR exceeds the permitted 0.50
2. Proposed open space is contrary to ZR 23-141(a) in that the proposed OSR is less than the required 150 percent
3. Plans are contrary to ZR 23-47 in that the proposed rear yard is less than 30’-0”;

WHEREAS, this is an application under ZR § 73-622, to permit, within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio (“FAR”), open space ratio, and rear yard, contrary to ZR §§ 23-141 and 23-47; and

WHEREAS, a public hearing was held on this application on ***, after due notice by publication in *The City Record*, and then to decision on February 25, 2014; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Chair Srinivasan, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 14, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the north side of Avenue J, between East 21st Street and East 22nd Street, within an R2 zoning district; and

WHEREAS, the site has a lot area of 5,000 sq. ft. and is occupied by a single-family home with a floor area of 3,885.72 sq. ft. (0.78 FAR); and

WHEREAS, the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant now seeks an increase in the floor area from of 3,885.72 sq. ft. (0.78 FAR) to 4,999.87 sq. ft. (1.0 FAR); the maximum permitted floor area is 2,500 sq. ft. (0.5 FAR); and

WHEREAS, the applicant seeks to reduce the open space ratio from 92 percent to 55 percent; the minimum required open space ratio is 150 percent; and

WHEREAS, the applicant also seeks to decrease its rear yard depth from 30’-8½” to 20’-0”;

WHEREAS, a minimum rear yard depth of 30’-0” is required; and
WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, in particular, the applicant represents that the proposed 1.0 FAR is consistent with the bulk in the surrounding area and submitted an analysis indicating that there are eight homes within one block of the site with an FAR of 1.0 or greater; and

WHEREAS, at hearing, the Board directed the applicant to add notes to the plans indicating that porches and decks would be subject to the approval of DOB; and

WHEREAS, in response, the applicant submitted amended plans showing the required notes; and

WHEREAS, accordingly, the Board agrees with the applicant that the proposed bulk is compatible with the character of the neighborhood; and

WHEREAS, based upon its review of the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR § 73-622, to permit, within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for FAR, open space ratio, and rear yard, contrary to ZR §§ 23-141 and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “Received January 21,

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2014”- twelve (12) sheets and “February 18, 2014” – one (1) sheet; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 4,999.87 sq. ft. (1.0 FAR), a minimum open space ratio of 55 percent, and a minimum rear yard depth of 20’-0”, as illustrated on the BSA-approved plans;

THAT porches, decks, and calculation of floor area will subject to the approval of DOB;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s);

THAT the approved plans will be considered approved only for the portions related to the specific relief granted;

THAT substantial construction be completed in accordance with ZR § 73-70; and

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, February 25, 2014.

272-13-BZ

CEQR #14-BSA-043Q

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for 78-14 Roosevelt LLC, owner; Blink 78-14 Roosevelt, Inc., lessee.

SUBJECT – Application September 18, 2013 – Special Permit (§73-36) to permit a physical culture establishment (*Blink Fitness*) within a portions of an existing commercial building. C2-3/R6 & R5 zoning district.

PREMISES AFFECTED – 78-02/14 Roosevelt Avenue aka 40-41 78th Street and 40-02 79th Street, south side of Roosevelt Avenue between 78th Street and 79th Street, Block 1489, Lot 7501, Borough of Queens.

COMMUNITY BOARD #4Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated September 11, 2013, acting on Department of Buildings (“DOB”) Application No. 420894223, reads in pertinent part:

Proposed physical culture establishment in C2-3 zoning district is contrary to ZR 32-10; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located partially within a C2-3 (R6) zoning district and partially within an R5 zoning district, the operation of a physical culture establishment

(“PCE”) on portions of the first and second floors of a two-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on February 4, 2014, after due notice by publication in *The City Record*, and then to decision on February 25, 2014; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by Commissioner Montanez; and

WHEREAS, the subject site is an irregularly-shaped lot occupying the entire block frontage on the south side of Roosevelt Avenue between 78th Street and 79th Street, partially within a C2-3 (R6) zoning district and partially within an R5 zoning district; and

WHEREAS, the site has 150 feet of frontage along 78th Street, 238.45 feet of frontage along Roosevelt Avenue, 100 feet of frontage along 79th Street, and 29,767 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-story commercial building, a portion of which was enlarged pursuant to a grant from the Board under BSA Cal. No. 496-23-BZ, which also authorized the use of the building for public parking; and

WHEREAS, the applicant notes that, per Certificate of Occupancy No. 212624, issued July 18, 1990, the lawful use of the building is for retail stores and offices (Use Group 6) and three accessory parking spaces; and

WHEREAS, the proposed PCE will occupy 524 sq. ft. of floor area on the first floor and 15,779 sq. ft. of floor area on the second floor; and

WHEREAS, the applicant represents that no portion of the PCE will operate within the R5 portion of the site; and

WHEREAS, the PCE will be operated as Blink Fitness; and

WHEREAS, the applicant represents that the services at the PCE include facilities for classes, instruction and programs for physical improvement, body building, weight reduction, and aerobics; and

WHEREAS, the hours of operation for the PCE are Monday through Saturday, from 5:30 a.m. to 11:00 p.m., and Sunday from 7:00 a.m. to 9:00 p.m.; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither 1) alter the essential character of the surrounding neighborhood; 2) impair the use or development of adjacent properties; nor 3) be detrimental to the public welfare; and

WHEREAS, at hearing, the Board directed the applicant to amend the plans to clearly show that the proposed use and signage are entirely outside the R5 portion of the site, and that the signage is in compliance with the C2-

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3 regulations for accessory signs; and

WHEREAS, in response, the applicant submitted amended plans showing compliant signage; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; however, the Board has reduced the term of the grant to reflect the period of time that the PCE operated without the special permit; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action discussed in the Environmental Assessment Statement, CEQR No. 14BSA043Q dated September 16, 2013; and

WHEREAS, the EAS documents that the operation of the PCE would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issued a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03 to permit, on a site located partially within a C2-3 (R6) zoning district and partially within an R5 zoning district, the operation of a PCE on portions of the first and second floors of a two-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received December 12, 2013" – Four (4) sheets; and *on further condition*:

THAT the term of the PCE grant will expire on February 25, 2024;

THAT the entrance to the PCE and all signage for the PCE will be restricted to the C2-3 (R6) portion of the site;

THAT there will be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT any massages will be performed only by New York State licensed massage professionals;

THAT Local Law 58/87 compliance will be as reviewed and approved by DOB;

THAT fire safety measures will be installed and/or maintained as shown on the Board-approved plans;

THAT the above conditions will appear on the Certificate of Occupancy;

THAT substantial construction will be completed in accordance with ZR § 73-70;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

THAT the approved plans will be considered approved only for the portions related to the specific relief granted; and

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, February 25, 2014.

78-11-BZ & 33-12-A thru 37-12-A

APPLICANT – Sheldon Lobel, P.C., for Indian Cultural and Community Center, Incorporated, owner.

SUBJECT – Applications May 27, 2011 and February 9, 2012 – Variance (§72-21) to allow for the construction of two assisted living residential buildings, contrary to use regulations (§32-10).

Proposed construction of two mixed use buildings that do not have frontage on a legally mapped street, contrary to General City Law Section 36. C8-1 Zoning District.

PREMISES AFFECTED – 78-70 Winchester Boulevard, Premises is a landlocked parcel located just south of Union Turnpike and west of 242nd Street, Block 7880, Lots 550, 500 Borough of Queens.

COMMUNITY BOARD #13Q

ACTION OF THE BOARD – Laid over to May 20, 2014, at 10 A.M., for continued hearing.

77-12-BZ

APPLICANT – Moshe M. Friedman, P.E., for Goldy Jacobowitz, owner.

SUBJECT – Application April 3, 2012 – Variance (§72-21) to permit a new residential building, contrary to use regulations (§42-00). M1-1 zoning district.

PREMISES AFFECTED – 91 Franklin Ave, 82'-3" south side corner of Franklin Avenue and Park Avenue, Block 1899, Lot 24, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Laid over to March 25, 2014, at 10 A.M., for continued hearing.

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263-12-BZ & 264-12-A

APPLICANT – Sheldon Lobel, P.C., for Luke Company LLC, owner.

SUBJECT – Application September 4, 2012 – Variance (§72-21) to permit senior housing (UG 2), contrary to use regulations (§42-00).

Variance (Appendix G, Section BC G107, NYC Administrative Code) to permit construction in a flood hazard area which does not comply with Appendix G, Section G304.1.2 of the Building Code. M1-1 zoning district.

PREMISES AFFECTED – 232 & 222 City Island Avenue, site bounded by Schofield Street and City Island Avenue, Block 5641, Lots 10, 296, Borough of Bronx.

COMMUNITY BOARD #10 & 13BX

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5
Negative:.....0

ACTION OF THE BOARD – Laid over to May 13, 2014, at 10 A.M., for decision, hearing closed.

65-13-BZ

APPLICANT – Eric Palatnik, Esq., for Israel Rosenberg, owner.

SUBJECT – Application February 12, 2013 – Variance (§72-21) to permit a residential development, contrary to use regulations (§42-00). M1-1 zoning district.

PREMISES AFFECTED – 123 Franklin Avenue, between Park and Myrtle Avenues, Block 1899, Lot 108, Borough of Brooklyn.

COMMUNITY BOARD #3BK

ACTION OF THE BOARD – Laid over to April 29, 2014, at 10 A.M., for continued hearing.

76-13-BZ

APPLICANT – Eric Palatnik, P.C., for Victor Pometko, owner.

SUBJECT – Application February 21, 2013 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to lot coverage and floor area (§23-141), side yards (§23-461), and less than the minimum required rear yard (§23-47). R3-1 zoning district.

PREMISES AFFECTED – 176 Oxford Street, between Oriental Boulevard and Shore Boulevard, Block 8757, Lot 10, Borough of Brooklyn.

COMMUNITY BOARD #15BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5
Negative:.....0

ACTION OF THE BOARD – Laid over to March 25, 2014, at 10 A.M., for decision, hearing closed.

94-13-BZ

APPLICANT – Vinod Tewari, for Peachy Enterprise, LLC, owner.

SUBJECT – Application March 25, 2013 – Special Permit (§73-19) to allow a school, contrary to use regulation (§42-00). M1-3 zoning district.

PREMISES AFFECTED – 11-11 40th Avenue aka 38-78 12th Street, Block 473, Lot 473, Borough of Queens.

COMMUNITY BOARD #1Q

ACTION OF THE BOARD – Laid over to April 1, 2014, at 10 A.M., for deferred decision.

160-13-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Yitzchok and Hindy Blumenkrantz, owners.

SUBJECT – Application May 28, 2013 – Special Permit (§73-622) for the enlargement of an existing single home, contrary to floor area and open space (§23-141); side yard (§23-461) and rear yard (§23-47) regulations. R2 zoning district.

PREMISES AFFECTED – 1171-1175 East 28th Street, east side of East 28th Street between Avenue K and Avenue L, Block 7628, Lot 16, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Laid over to March 25, 2014, at 10 A.M., for continued hearing.

177-13-BZ

APPLICANT – Eric Palatnik, P.C., for Dmitriy Ratsenberg, owner.

SUBJECT – Application June 18, 2013 – Special Permit (§73-622) for the enlargement of an existing single family home, to be converted to a two-family home, contrary to floor area, lot coverage and open space (§ZR 23-141) and less than the required rear yard (§ZR 23-47). R3-1 zoning district.

PREMISES AFFECTED – 134 Langham Street, west side of Langham Street between Shore Boulevard and Oriental Boulevard, Block 8754, Lot 38, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Laid over to March 25, 2014, at 10 A.M., for continued hearing.

207-13-BZ

APPLICANT – Harold Weinberg, P.E., for Harold Shamah, owner.

SUBJECT – Application July 3, 2013 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, open space and lot coverage (§23-141); and less than the required rear yard (§23-47). R3-1 zoning district.

PREMISES AFFECTED – 177 Hastings Street, east side of

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Hastings Street, between Oriental Boulevard and Hampton Avenue, Block 8751, Lot 456, Borough of Brooklyn.

COMMUNITY BOARD #15BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5
Negative:.....0

ACTION OF THE BOARD – Laid over to March 25, 2014, at 10 A.M., for decision, hearing closed.

213-13-BZ

APPLICANT – Rothrug Rothkrug & Spector LLP, for Ridgeway Abstracts LLC, owner.

SUBJECT – Application July 12, 2013 – Special Permit (§73-126) to allow a medical office, contrary to bulk regulations (§22-14). R3A zoning district.

PREMISES AFFECTED – 3858-60 Victory Boulevard, east corner of intersection of Victory Boulevard and Ridgeway Avenue, Block 2610, Lot 22 & 24, Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Laid over to March 25, 2014, at 10 A.M., for continued hearing.

216-13-BZ & 217-13-A

APPLICANT – Rampulla Associates Architects, for 750 LAM Realty, LLC c/o Benjamin Mancuso, owners; Puglia By The Sea, Inc. c/o Benjamin Mancuso, lessees.

SUBJECT – Application July 17, 2013 – Variance (§72-21) to demolish an existing restaurant damaged by Hurricane Sandy and construct a new eating and drinking establishment with accessory parking for 25 cars, contrary to use (§23-00) regulations, and located in the bed of the mapped street, (*Boardwalk Avenue*), contrary to General City Law Section 35. R3X (SRD) zoning district.

PREMISES AFFECTED – 750 Barclay Avenue, west side of Barclay Avenue, 0' north of the corner of Boardwalk Avenue, Block 6354, Lot 40, 7, 9 & 12, Borough of Staten Island.

COMMUNITY BOARD #3SI

ACTION OF THE BOARD – Laid over to April 29, 2014, at 10 A.M., for continued hearing.

236-13-BZ

APPLICANT – Warshaw Burstein, LLP by Joshua J. Rinesmith, for 423 West 55th Street, LLC, owner; 423 West 55th Street Fitness Group, LLP, lessee.

SUBJECT – Application August 13, 2013 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*Planet Fitness*) on the first and mezzanine floors of the existing building, and Special Permit (§73-52) to allow the fitness center use to extend 25'-0" into the R8 portion of the zoning lot. C6-2 & R8 zoning district.

PREMISES AFFECTED – 423 West 55th Street, north side of West 55th Street, 275' east of the intersection formed by 10th Avenue and West 55th Street, Block 1065, Lot 12, Borough of Manhattan.

COMMUNITY BOARD #4M

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5
Negative:.....0

ACTION OF THE BOARD – Laid over to March 11, 2014, at 10 A.M., for decision, hearing closed.

268-13-BZ

APPLICANT – Belkin Burden Wenig & Goldman, LLP, for Rachel H.Opland, Adrienne & Maurice Hayon, owner.

SUBJECT – Application September 13, 2013 – Special Permit (§73-621) to permit legalize an enlargement to a three-story mixed use building, contrary to lot coverage regulations (§23-141). R5 zoning district.

PREMISES AFFECTED – 2849 Cropsey Avenue, north east side of Cropsey Avenue, approximately 25.9 feet northwest from the corner formed by the intersection of Bay 50th St. and Cropsey Avenue, Block 6917, Lot 55, Borough of Brooklyn.

COMMUNITY BOARD #13BK

ACTION OF THE BOARD – Laid over to March 25, 2014, at 10 A.M., for continued hearing.

274-13-BZ

APPLICANT – Sheldon Lobel, P.C., for SKP Realty, owner; H.I.T. Factory Approved Inc., owner.

SUBJECT – Application September 26, 2013 – Variance (§72-21) to permit the operation of a physical culture establishment (*H.I.T. Factory Improved*) on the second floor of the existing building. C1-3/R6B zoning district.

PREMISES AFFECTED – 7914 Third Avenue, west Side of Third Avenue between 79th and 80th Street, Block 5978, Lot 46, Borough of Brooklyn.

COMMUNITY BOARD #10BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5
Negative:.....0

ACTION OF THE BOARD – Laid over to March 11, 2014, at 10 A.M., for decision, hearing closed.

282-13-BZ

APPLICANT – Flora Edwards, Esq., for Red Hook Property Group, LLC, owner; High Mark Independent, LLC, lessee.

SUBJECT – Application October 4, 2013 – Special Permit (§73-19) to permit construction of a new 89,556 sq.ft. school (*The Basis Independent Schools*). M1-1 zoning

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district.

PREMISES AFFECTED – 556 Columbia Street aka 300 Bay Street, west side of Columbia Street between Bay Street and Sigourney Street, Block 601, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #6BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

ACTION OF THE BOARD – Laid over to March 25, 2014, at 10 A.M., for decision, hearing closed.

293-13-BZ

APPLICANT – Slater & Beckerman, P.C., for JSB Reality No 2 LLC, owner; Fitness International, LLC aka LA Fitness, lessee.

SUBJECT – Application October 23, 2014 – Special Permit (§73-36) to permit the operation of a physical culture establishment (*LA Fitness*). C2-2/R4 zoning district.

PREMISES AFFECTED – 78-04 Conduit Avenue, west side of South Conduit Avenue between Linden Boulevard, and Sapphire Avenue, Block 11358, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #10BK

THE VOTE TO CLOSE HEARING –

Affirmative: Chair Srinivasan, Vice Chair Collin, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....5

Negative:.....0

ACTION OF THE BOARD – Laid over to March 25, 2014, at 10 A.M., for decision, hearing closed.

Jeff Mulligan, Executive Director

Adjourned: P.M.

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*CORRECTION

This resolution adopted on September 10, 2013, under Calendar No. 83-13-BZ and printed in Volume 98, Bulletin Nos. 35-37, is hereby corrected to read as follows:

83-13-BZ

CEQR #13-BSA-107K

APPLICANT – Boris Saks, Esq., for David and Maya Burekhovich, owners.

SUBJECT – Application March 4, 2013 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area and open space (§23-141) and less than the required rear yard (§23-47). R2 zoning district. PREMISES AFFECTED – 3089 Bedford Avenue, Bedford Avenue and Avenue I and Avenue J, Block 7589, Lot 18, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated February 26, 2013 acting on Department of Buildings Application No. 320704877, reads in pertinent part:

The proposed enlargement of the existing one family residence:

4. Creates non-compliance with respect to floor area by exceeding the allowable floor area ratio and is contrary to Section 23-141;
5. Creates non-compliance with respect to the open space ratio and is contrary to Section 23-141;
6. Creates non-compliance with respect to rear yard by not meeting the minimum requirements of Section 23-47; and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio (“FAR”), open space, and rear yard, contrary to ZR §§ 23-141 and 23-47; and

WHEREAS, a public hearing was held on this application on July 16, 2013, after due notice by publication in *The City Record*, with a continued hearing on August 13, 2013, and then to decision on September 10, 2013; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Commissioner Hinkson and Commissioner Montanez; and

WHEREAS, Community Board 14, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the east side of Bedford Avenue, between Avenue I and Avenue J, within an R2 zoning district; and

WHEREAS, the site has a lot area of 6,000 sq. ft. and is occupied by a single-family home with a floor area of 2,393 sq. ft. (0.4 FAR); and

WHEREAS, the premises is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant seeks an increase in the floor area from 2,393 sq. ft. (0.40 FAR) to 5,994 sq. ft. (1.0 FAR); the maximum permitted floor area is 3,000 sq. ft. (0.50 FAR); and

WHEREAS, the applicant also proposes to increase its non-complying rear yard depth from 19’-8¾” to 20’-0” (a minimum rear yard depth of 30’-0” is required) and reduce its open space from 177 percent to 54 percent (a minimum open space of 150 percent is required); and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, the Board agrees with the applicant that the proposed bulk is in keeping with the character of the neighborhood; and

WHEREAS, based upon its review of the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, the Board finds that the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR §§ 73-622 and 73-03.

Therefore it is resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio (“FAR”), open space, and rear yard, contrary to ZR §§ 23-141 and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “Received June 19, 2013”- (2) sheets and “July 29, 2013”-(10) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 5,994 sq. ft. (1.0 FAR), a

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minimum open space of 54 percent, and a minimum rear yard depth of 20'-0", as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only; no approval has been given by the Board as to the use and layout of the cellar;

THAT the approved plans will be considered approved only for the portions related to the specific relief granted;

THAT substantial construction be completed in accordance with ZR § 73-70; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 10, 2013.

***The resolution has been corrected to indicate that the approved floor area is 5,994 sq. ft . Corrected in Bulletin Nos. 8-9, Vol. 99, dated March 6, 2014.**

*CORRECTION

This resolution adopted on February 4, 2014, under Calendar No. 209-13-BZ and printed in Volume 99, Bulletin No. 6, is hereby corrected to read as follows:

209-13-BZ

CEQR #14-BSA-005M

APPLICANT – Sheldon Lobel, P.C., for 12 W21 Land, L.P., owner.

SUBJECT – Application July 8, 2014 – Special Permit (§73-36) to allow a physical culture establishment (*NY Physical Training Fitness Studio*) within the existing building, contrary to C6-4A zoning district.

PREMISES AFFECTED – 12 West 21st Street, between 5th Avenue and 6th Avenue, Block 822, Lot 49, Borough of Manhattan.

COMMUNITY BOARD #5M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Manhattan Borough Commissioner, dated June 6, 2013, acting on Department of Buildings (“DOB”) Application No. 121094813, reads in pertinent part:

Physical culture establishment is not permitted as-of-right in a C6-4A zoning district and is contrary to ZR 32-10; and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to permit, on a site located in a C6-4A zoning district within the Ladies’ Mile Historic District, the legalization of a physical culture establishment (“PCE”) on the second floor of a 12-story commercial building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on January 14, 2014 after due notice by publication in *The City Record*, and then to decision on February 4, 2014; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Chair Srinivasan, Commissioner Montanez and Commissioner Ottley-Brown; and

WHEREAS, Community Board 5 Manhattan, expresses no objection to this application; and

WHEREAS, the subject site is located on the south side of West 21st Street, between Fifth Avenue and Avenue of the Americas, within a C6-4A zoning district within the Ladies’ Mile Historic District; and

WHEREAS, the site has approximately 50.5 feet of frontage along West 21st Street, and 4,646 sq. ft. of lot area; and

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WHEREAS, the site is occupied by a 12-story commercial building with 54,220 sq. ft. of floor area (11.67 FAR); and

WHEREAS, the PCE occupies approximately 4,242 sq. ft. of floor area on the second floor of the building; and

WHEREAS, the PCE began operation as New York Personal Training Fitness Studio on January 1, 2008; and

WHEREAS, the applicant represents that the services at the PCE include facilities for classes, instruction and programs for physical improvement, body building, weight reduction, and aerobics; and

WHEREAS, the hours of operation for the PCE are seven days per week, 24 hours per day; and

WHEREAS, the Department of Investigation has performed a background check on the corporate owner and operator of the establishment and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, the Landmarks Preservation Commission has issued a Certificate of No Effect for the interior alterations and the exterior signage, dated October 2, 2013; and

WHEREAS, the PCE will not interfere with any pending public improvement project; and

WHEREAS, accordingly, the Board finds that this action will neither 1) alter the essential character of the surrounding neighborhood; 2) impair the use or development of adjacent properties; nor 3) be detrimental to the public welfare; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; however, the Board has reduced the term of the grant to reflect the period of time that the PCE operated without the special permit; and

WHEREAS, the project is classified as a Type I action pursuant to 6 NYCRR Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action discussed in the Environmental Assessment Statement, CEQR No. 14BSA005M dated July 8, 2013; and

WHEREAS, the EAS documents that the operation of the PCE would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issued a Type I Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and § 6-07(b) of the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03 to permit, on a site located in a C6-4A zoning district within the Ladies' Mile Historic District, the legalization of a PCE on the second floor of an 12-story commercial building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received November 6, 2013" – Four (4) sheets; and *on further condition*:

THAT the term of the PCE grant will expire on January 1, 2018;

THAT there will be no change in ownership or operating control of the PCE without prior application to and approval from the Board;

THAT any massages will be performed only by New York State licensed massage professionals;

THAT Local Law 58/87 compliance will be as reviewed and approved by DOB;

THAT fire safety measures will be installed and/or maintained as shown on the Board-approved plans;

THAT the above conditions will appear on the Certificate of Occupancy;

THAT substantial construction will be completed in accordance with ZR § 73-70;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

THAT the approved plans will be considered approved only for the portions related to the specific relief granted; and

THAT DOB must ensure compliance with all of the applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, February 4, 2014.

***The resolution has been revised to correct the Owner's name and to remove the extra hyphen in the zoning district. Corrected in Bulletin Nos. 8-9, Vol. 99, dated March 6, 2014.**